

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:22cr58-LG-BWR

PATRICK DARNELL DANIELS, JR

RESPONSE TO MOTION FOR ORDER DIRECTING RELEASE

The United States of America (“the Government”), by and through its undersigned counsel, respectfully submits this response to Defendant’s Motion for Order Directing Release of Defendant (Doc. 65). As set forth in Defendant’s motion, the Fifth Circuit’s mandate reversing the Defendant’s conviction and rendering judgment in Defendant’s favor was issued on September 25, 2023. Because the mandate has issued, the Government does not oppose Defendant’s request for an order authorizing his release.

However, despite this non-opposition and the issuance of the mandate, the Government does not and has not waived its ability to seek further review of the Fifth Circuit’s decision through a petition for writ of certiorari to the Supreme Court. *See United States v. Perez*, 110 F.3d 265, 266-67 (5th Cir. 1997) (holding that the Supreme Court retains jurisdiction over a case when a petition for writ of certiorari is timely filed after the issuance of a mandate); *see also United States v. Villamonte-Marquez*, 462 U.S. 579, 581 n.2 (1983) (discussing how the reversal of the court of appeals could result in the defendant’s imprisonment).

Therefore, the Government concedes that, at this juncture, Daniels should be released due to the Fifth Circuit’s mandate. However, should the Government successfully seek and obtain a reversal of the Fifth Circuit by the Supreme Court, then Daniels’s conviction and sentence should be reinstated.

Respectfully submitted,

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